NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 05-10008
Plaintiff - Appellee,	D.C. No. CR-03-01084-SMM
v.	
RAUL GAVIN MARTINEZ,	MEMORANDUM[*]
Defendant - Appellant.	

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted December 5, 2005[**]

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Raul Gavin Martinez appeals his guilty-plea conviction and 84-month

sentence imposed for possession with intent to distribute 50 grams or more of a

mixture or substance containing a detectable amount of methamphetamine, in

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[*]   This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

[**]   This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B)(viii).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Martinez has filed a brief stating there are no grounds for relief, and a motion to withdraw as counsel of record. No pro se supplemental brief has been filed.

Because our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988), indicates that Martinez knowingly and voluntarily waived his right to appeal and was sentenced within the terms of the plea agreement, we enforce the waiver and dismiss the appeal. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (noting that the changes in sentencing law imposed by *United States v. Booker*, 125 S. Ct. 738 (2005), did not render waiver of appeal involuntary and unknowing).

Counsel's motion to withdraw is **GRANTED**. The appeal is **DISMISSED.**